

STATEMENT OF DR. MICHAEL SOUKUP, ASSOCIATE DIRECTOR, NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, RECREATION, AND PUBLIC LANDS OF THE HOUSE COMMITTEE ON RESOURCES CONCERNING H.R. 2238, THE FERN LAKE CONSERVATION AND RECREATION ACT OF 2001

NOVEMBER 13, 2001

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 2238, to authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park.

The Department supports H.R. 2238, but is concerned about the National Park Service taking on new responsibilities, such as overseeing municipal water supply management, that are outside of its core mission and area of expertise. This legislation would help protect the magnificent landscape at Cumberland Gap National Historical Park and provide additional recreational opportunities for visitors. It would also help assure the continued supply of safe, clean drinking water for the city of Middlesboro, Kentucky.

H.R. 2238 would authorize the Secretary of the Interior to purchase a 4,500-acre area located in Kentucky and Tennessee adjacent to Cumberland Gap National Historical Park that contains Fern Lake and its watershed. Existing law allows the National Park Service to acquire this area, but not by purchase with appropriated funds. H.R. 2238 would allow the National Park Service to acquire the area by use of donated or appropriated funds, as well as by donation, or by a land exchange. Purchase of the property would be allowed only with the consent of the owner.

The authority to purchase the Fern Lake area is necessary because the owner of the 150-acre lake and about 600 acres of land surrounding the lake intends to sell the property. The remainder of the 4,500 acres of the watershed is not on the market at this time, but if it becomes available for purchase in the future, this legislation would provide the necessary authority for its acquisition.

In addition, H.R. 2238 would allow the Secretary of the Interior to enter into contracts to facilitate the sale and distribution of water from Fern Lake for the City of Middlesboro, Kentucky and environs. It would allow the proceeds from the sale of the water to be used for the park. The National Park Service would be required to manage recreational use of the lake in a manner that is consistent with protecting the lake as a source of safe, clean drinking water.

National Park Service policies generally prohibit the use of water resources in parks for entities outside of parks. However, Fern Lake, a reservoir constructed in 1893, is currently the sole source of water for Middlesboro, and we believe it is appropriate in this case to continue to allow Middlesboro to draw water from this source, since this is a traditional use and does not threaten park resources.

The bill attempts to provide flexibility to allow different options for ownership of the water supply, allowing the decision on the water ownership to be made as part of the negotiations for the purchase of Fern Lake. One possibility would be for the National Park Service to acquire the water supply, in which case the Service would contract with a utility for the distribution of the water. Another option would be for the National Park Service to acquire only an interest in the water while another entity, such as the water utility, acquires the water supply. We agree with the approach that the legislation takes in terms of providing this flexibility; however, we believe that language concerning the disposition of water after acquisition needs

clarification, and we plan to submit an amendment for your consideration. With all of these options, we need to be careful about the National Park Service taking on new responsibilities that are outside of its core mission or area of expertise and that are not assumed in current funding levels.

Cumberland Gap National Historical Park, established by the Act of June 11, 1940 (54 Stat 262; 16 U.S.C. 261 et seq.), commemorates the migration of hundreds of thousands of people who moved from the populous eastern states west across the Appalachian Mountains by way of Cumberland Gap to settle land in Kentucky, Tennessee, and beyond in the late 18th and early 19th Centuries. The park currently consists of about 20,000 acres in Virginia, Kentucky, and Tennessee, and is authorized to include up to 50,000 acres. The park's most visited attraction is Pinnacle Overlook, where visitors can see Kentucky, Virginia, and Tennessee and gain an appreciation of the landscape that played such a critical role in the development of our nation. Fern Lake is visible from the overlook.

The Fern Lake watershed has been a focal point for the Department of the Interior for several years. In 1996, after the Office of Surface Mining prepared a comprehensive environmental impact statement on proposed surface coal mining on the Tennessee side of the watershed, the Department declared the area unsuitable for that purpose. In 1997, after the State of Kentucky issued a permit to mine the Kentucky portion of the watershed, the National Park Service successfully appealed the permit. When the owner decided to sell the property last year, local residents began expressing support for having the property added to the National Park System.

Having Fern Lake under National Park Service management would produce many benefits. It would protect the watershed from threats of future development and thus help protect for the long term the landscape and views the park is known for. It would allow for public recreational use of a lake that is currently available only to private club members. It would also allow the development of more hiking trails in the park. These additional attractions would thus increase recreational opportunities in a region that is working hard to generate tourism. And, it would ensure that Fern Lake remains a source of clean, safe drinking water.

As you know, the Department is committed to the President's priority of eliminating the National Park Service's deferred maintenance backlog, and is concerned about the development and life-cycle operational costs associated with expansion of parks already included in the National Park System. Adding the Fern Lake watershed to Cumberland Gap National Historical Park would entail land acquisition costs, as well as additional operating and maintenance costs.

The owner of the lake and surrounding property (approximately 750 acres) has offered the property for \$5 million, but the actual cost of the property will not be known until an appraisal is done and a determination is made about whether or not to acquire the water supply. If, however, the National Park Service acquires the water supply, some revenue would accrue to the park from the sale of the water. According to information from the city of Middlesboro, the current owner receives approximately \$85,000 annually from the sale of water from Fern Lake. Any revenue, however, would likely be offset by increased operational costs, so this could result in a net cost to the National Park Service.

In addition, we anticipate some additional operations and maintenance costs associated with making the newly acquired land available for public use. Establishing trails and building or remodeling facilities around the lake would entail one-time development costs. There would be recurring annual costs associated with staff needed for resource protection and visitor services in the new area. We do not have an estimate of those costs at this time, but we note that if the full 4,500 acres of the watershed is acquired, it would increase the size of the park by about 22 percent. The current annual base funding for Cumberland Gap

National Historical Park is \$1.8 million.

In summary, the Department supports H.R. 2238 as a means to help assure protection for the natural and cultural resources of Cumberland Gap National Historical Park and to provide important benefits for the surrounding communities, through the acquisition of land from willing sellers.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

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